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*To ensure access to high-quality,  
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# ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

August 16, 2016

22 August 16, 2016

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

LORI GLASGOW  
EXECUTIVE OFFICER

Dear Supervisors:

**DELEGATE AUTHORITY TO THE DEPARTMENT OF HEALTH SERVICES  
TO EXECUTE THE MARTIN LUTHER KING, JR. COMMUNITY HOSPITAL  
INTERGOVERNMENTAL TRANSFER CERTIFICATION FORM WITH THE  
CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES  
(SECOND DISTRICT)  
(3-VOTES)**

**SUBJECT**

The recommended action will delegate authority to the Director, Department of Health Services, or his designee, to execute the Martin Luther King, Jr. Community Hospital intergovernmental transfer Certification Form required by the California Department of Health Care Services for Fiscal Year 2015-16, and substantially similar certification forms for future fiscal years.

**IT IS RECOMMENDED THAT THE BOARD:**

Delegate authority to the Director, Department of Health Services (DHS), or his designee, to execute the Fiscal Year 2015-16 Martin Luther King, Jr. Community Hospital (MLKCH) intergovernmental transfer (IGT) Certification Form, substantially similar to the attached, and all other necessary forms, as required by the California Department of Health Care Services (DHCS), and to execute substantially similar certification and other necessary forms for future fiscal years, subject to review and approval by County Counsel, and notification to the Board and the Chief Executive Office.

## **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Approval of the recommended action will delegate authority to the Director of DHS, or his designee, to execute the MLKCH IGT Certification Form with DHCS for Fiscal Year 2015-16, and to execute substantially similar certification forms for future fiscal years, subject to review and approval by County Counsel, and notification to the Board and the Chief Executive Office. An IGT Certification Form with DHCS is a standard part of the IGT process; however, DHCS has added a new provision to the standard IGT Certification Form. The new provision would hold the County responsible if MLKCH is unable to repay the federal share in the case of a disallowance related to a federally impermissible source of IGT funding provided by the County. The Department believes such a disallowance is highly unlikely.

## **BACKGROUND**

On April 22, 2014, your Board approved a Lease Agreement with the Martin Luther King, Jr. – Los Angeles Healthcare Corporation. The funding provisions in the Lease Agreement provided that, upon approval by the Centers for Medicare and Medicaid Services (CMS) of a Medi-Cal State Plan Amendment (SPA), the County would provide to the State an annual IGT of up to \$50.0 million which would allow for a federal share or match of up to an additional \$50.0 million, with these supplemental payments of the IGT and federal share paid to MLKCH.

DHS worked with the State, CMS and MLKCH to get the SPA approved. DHS has recently been informed that CMS has tentatively approved the SPA and is expected to send official notice of approval to DHCS shortly. The next step in the IGT process is to execute the MLKCH IGT Certification Form with DHCS. DHCS has added a provision to the standard IGT Certification Form that would hold the County responsible for the federal share in case of a disallowance by CMS for County's use of federally impermissible sources for the IGT funding and MLKCH is unable to repay the federal share. Once DHS executes the Certification Form, the final step is for DHS to submit the IGT funds which will allow MLKCH to obtain the federal match. Because this process is routine, as with other IGTs made by DHS in the past, DHS does not anticipate that any disallowance will occur related to the MLKCH IGT.

## **Implementation of Strategic Plan Goals**

The countywide Strategic Plan goal of Operational Effectiveness (Goal 1) directs that the County maximize the effectiveness of processes, operations and strong fiscal management to support timely delivery of efficient public services. The approval of the recommended action will support this goal by ensuring that the IGT for MLKCH is executed timely.

## **FISCAL IMPACT/FINANCING**

Approval of this recommendation has no fiscal impact.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

DHCS is requiring the IGT Certification Form to be executed with a new provision holding the County responsible for the federal share in the case of any federal disallowance related to the County's use of impermissible funding sources for the MLKCH IGT and MLKCH is unable to repay the federal share. DHS believes it is highly unlikely that such a disallowance would occur.

**CONTRACTING PROCESS**

N/A

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The recommended action will support the provision of quality inpatient health care services to the residents of South Los Angeles County.

**CONCLUSION**

The recommended action is necessary in order to execute the MLKCH IGT agreement with DHCS.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mitchell Katz". The signature is written in a cursive, flowing style.

Mitchell H. Katz, M.D.

Director

MHK:ANW:co

Enclosures

c: Executive Office, Board of Supervisors  
County Counsel  
Health Services

DEPARTMENT OF HEALTH CARE SERVICES  
SAFETY NET FINANCING DIVISION / MEDI-CAL SUPPLEMENTAL PAYMENTS UNIT  
MARTIN LUTHER KING JR. COMMUNITY HOSPITAL (MLK-LA)  
INTERGOVERNMENTAL TRANSFER (IGT)  
CERTIFICATION FORM  
SFY 2015-16

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I, the undersigned, state the following: As a public administrator, a public officer, or other public individual of the County of Los Angeles (Public Agency), I am authorized or designated to make this Certification, and declare that this Certification is true and correct. I understand that the making of false statements or the filing of a false or fraudulent claim is punishable under state and federal law.

This Certification is made under the penalty of perjury.

1. The Public Agency making this intergovernmental transfer (IGT) to the Department of Health Care Service (DHCS) qualifies as an eligible transferring entity under Welfare and Institutions Code section 14164.
2. The source of funds submitted to DHCS for the IGT is derived from state or local bonds, tax revenue, or other funds as permitted for claiming federal financial participation (FFP) by Section 1903(w) of the Social Security Act and Subpart B of Part 433 of Title 42 of the Code of Federal Regulations. The source of funds excludes any impermissible source, such as, federal funds excluded from use as the non-federal share, impermissible taxes, and non-bona fide provider-related donations in cash or in kind. The Public Agency attests that these IGT funds will not be earmarked for any purpose other than for Medi-Cal eligible services, and acknowledges that 100 percent of the IGT amount specified below is being transferred and is intended to be used by DHCS as the non-federal share funding of the supplemental payments made to Martin Luther King, Jr. Community Hospital (MLK-LA) pursuant to Welfare and Institutions Code section 14165.50.
3. The Public Agency's IGTs have not previously been, nor will they be, claimed as expenditures at any other time as claims to receive FFP under Medi-Cal or any other federal program.
4. The Public Agency acknowledges that the IGT is to be used by DHCS for Medicaid payments which will be filed as a claim with the federal government for federal funds, and understands that misrepresentation by the Public Agency affecting the eligibility of the IGT for this use may constitute violation of federal and state law.
5. The Public Agency acknowledges that all records regarding the allowable source of funds transferred must be maintained and are subject to review and audit by DHCS.
6. The Public Agency understands that DHCS must deny payment under Welfare and Institutions Code sections 14164 if it is determined that the IGT, the certification, or both is not adequately supported for purposes of claiming FFP.
7. The Public Agency's funds transferred represent a voluntary contribution to the non-federal share of Medi-Cal expenditures for purposes of Section 10201(c) of

DEPARTMENT OF HEALTH CARE SERVICES  
SAFETY NET FINANCING DIVISION / MEDI-CAL SUPPLEMENTAL PAYMENTS UNIT  
MARTIN LUTHER KING JR. COMMUNITY HOSPITAL (MLK-LA)  
INTERGOVERNMENTAL TRANSFER (IGT)  
CERTIFICATION FORM  
SFY 2015-16

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the Patient Protection and Affordable Care Act (Public Law No. 111-148). DHCS is in no way requiring the Public Agency to provide the IGT funding.

8. The Medi-Cal payments made pursuant to this IGT will be distributed to MLK-LA. The Public Agency will not demand or require that MLK-LA transfer any amount of the IGT-funded payment to the Public Agency or other local government. Furthermore, the Public Agency or other local government shall not accept any transfer of the IGT-funded payment from MLK-LA. MLK-LA will retain 100% of the Medi-Cal payments.
9. Upon notice from the federal government of a disallowance or deferral related to this IGT based on the IGT being made from a federally impermissible source of funding, then DHCS shall attempt to recover the payments funded by the IGT from MLK-LA, from which the federal share will be refunded to the federal government and the nonfederal share returned to the Public Agency. To the extent that DHCS is unable to recover any such funds from MLK-LA, the Public Agency shall be the entity responsible for the federal portion of the unrecovered payment that was disallowed or deferred and shall reimburse DHCS such amount. Upon reasonable request from the Public Agency, DHCS shall appeal or dispute any such disallowance or deferral, and the Public Agency shall provide such assistance with such appeal or dispute as DHCS may reasonably request. If the disallowance or deferral is subsequently reversed, in whole or in part, and if federal funds are ultimately permitted for the IGT-funded payments that were in question, then: (1) to the extent DHCS recovered the amounts from the MLK-LA, DHCS shall return the recovered payments to MLK-LA, with the Public Agency providing the appropriate amount of the nonfederal share; and (2) to the extent DHCS recovered amounts from the Public Agency, DHCS shall return the amounts to the Public Agency. If DHCS recovered amounts from both MLK-LA and the Public Agency, and the full amount of the deferral or disallowance was not reversed, DHCS shall return to the MLK-LA and the Public Agency amounts proportional to their share of the reversed amount.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Name of Public Agency: \_\_\_\_\_

Amount of IGT for Payment: \_\_\_\_\_

Date: \_\_\_\_\_